IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.475 OF 2006

IN

SUMMARY SUIT NO.2839 OF 2003

Saroj Shah. ...Plaintiff.

vs.

M/s.Shah Lakhamshi Parbat & Co. & others. ...Defendants.

Mr.A.G.Damle, for Plaintiff.

Ms.S.P.Thakkar, for Defendant no.2.

Mr.M.N.Kenia, for Defendant nos.3 to 5.

Mr.M.J.Devani, for Defendant nos.6 & 7.

CORAM: D.K.DESHMUKH,J.

DATED: 9th January, 2007.

P.C.:-

1. The plaintiff has filed this suit on the basis of the writings which are of the year 1998. The suit has been lodged in March,2003. In order to show that the plaintiff has instituted the suit within a period of limitation, the plaintiff relies on the part payments made by the

defendants. But even, according to the plaintiff, part payments are made in cash. The plaintiff does not have any document to show that the part payments have been made. Therefore, in order to prove that his suit is within limitation, the plaintiff will have to lead oral evidence. Obviously, therefore, the suit cannot be decreed in summary jurisdiction. The summons for judgment is disposed of. The defendants are granted unconditional leave to defend the suit. Written statement to be filed within 12 weeks from today.